

01  
02  
03  
04  
05  
06  
07 UNITED STATES DISTRICT COURT  
08 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

09 BILLY WILLINGHAM,

10 Plaintiff,

11 v.

12 OFFICER PHILLIPS, et al.,

13 Defendants.

)  
)  
) Case No. 05-0099-RSM-JPD  
)

) REPORT AND RECOMMENDATION  
)  
)  
)  
)


14  
15 Plaintiff is proceeding pro se and in forma pauperis in this 42 U.S.C. § 1983 civil  
16 rights action. On August 22, 2005, after the dispositive motion deadline for this case had  
17 passed, the Court issued an order directing the plaintiff to inform the Court as to whether he  
18 wished to continue his pro se status, and directing defendants to show cause as to why counsel  
19 should not be appointed. Dkt. No. 28. Neither party responded timely to the order.<sup>1</sup>

20 On September 9, 2005, the Court issued a show-cause order directing plaintiff to show  
21 cause as to why his case should not be dismissed for failure to prosecute, and directing  
22 defendants to inform the Court as to whether plaintiff is still in state or local custody. Dkt.  
23 No. 30. Defendants have responded that plaintiff is not in custody and that they do not have  
24 plaintiff's current address. Dkt. No. 31. Plaintiff has not responded.

25  
26 <sup>1</sup> There have been no filings by plaintiff since early May 2005 and none from  
defendants since late April 2005. Moreover, it appears that the Court's correspondence to  
plaintiff, including its order of August 22, 2005, has been returned by the King County  
Correctional Facility with the notation "out." Dkt. No. 29.

01 The show-cause deadline of September 28, 2005, has passed. Moreover, it has been  
02 almost five months since plaintiff has filed any court documents or responded to any court  
03 order. It appears that plaintiff no longer wishes to prosecute his case. Therefore, pursuant to  
04 Local Rule CR 41(b), the Court recommends that this case be dismissed without prejudice for  
05 failure to prosecute. A proposed Order accompanies this Report and Recommendation.

06 DATED this 14th day of October, 2005.

07   
08 JAMES P. DONOHUE  
09 United States Magistrate Judge  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26